

Alcohol and Tobacco Tax and Trade Bureau, Treasury

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such copies will be considered the supporting record required by this section.

(Approved by the Office of Management and Budget under control number 1512-0358)

(72 Stat. 1423, as amended; 26 U.S.C. 5741)

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 40.187 Record of sales prices of large cigars.

Every manufacturer of tobacco products who removes large cigars from the factory shall keep such records as are necessary to establish and verify the price for which the cigars are sold, in accordance with § 40.22. The record shall be a continuing one of each brand and size of cigar so that the sale price on which the tax is based may be readily ascertained.

[T.D. ATF-307, 55 FR 52743, Dec. 21, 1990. Redesignated and amended by T.D. ATF-420, 64 FR 71941, Dec. 22, 1999; T.D. ATF-420, 65 FR 1676, Jan. 11, 2000]

INVENTORIES AND REPORTS

§ 40.201 Inventories.

Every manufacturer of tobacco products shall make true and accurate inventories on Form 5210.9, which inventories shall include all tobacco products and tobacco on hand required to be accounted for in the records kept under this part. The manufacturer shall make such an inventory at the time of commencing business, which shall be the effective date of the permit issued upon original qualification under this part; at the time of transferring ownership; at the time of changing the location of his factory to a different region; at the time of concluding business; and at such other time as any appropriate TTB officer may require. Each inventory shall be prepared in duplicate, and shall be subject to verification by an appropriate TTB officer. The original of each such inventory shall be submitted to the appro-

priate TTB officer, and the duplicate shall be retained by the manufacturer.

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(72 Stat. 1422, 1423, as amended; 26 U.S.C. 5721, 5741)

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§ 40.202 Reports.

(a) *Monthly report.* Every manufacturer of tobacco products shall make a report on Form 5210.5, in duplicate, for each month and for any portion of a month during which he engages in such business. Such report shall be made regardless of whether any operations or transactions occurred during the month or portion of a month covered therein. The report for a month or portion of a month in which business is commenced or is concluded shall be conspicuously marked "Commencing Report" or "Concluding Report," respectively. The original of the report shall be submitted to the appropriate TTB officer not later than the 20th day of the month succeeding the month covered therein, and the duplicate shall be retained by the manufacturer. Each report shall show, for the period covered, the total quantity of tobacco products:

- (1) Manufactured,
- (2) Received in bond,
- (3) Received by return to bond,
- (4) Disclosed by inventory as an overage,
- (5) Removed subject to tax,
- (6) Removed in bond,
- (7) Otherwise disposed of without determination of tax,
- (8) Disclosed by inventory as a shortage, and
- (9) On hand, in bond, beginning of and end of month.

(b) *Report of wholesale prices of large cigars removed before January 1, 1991.* Every manufacturer of tobacco products who removes large cigars from his factory, and who issues announcements such as those described in this paragraph, shall make a report of each establishment or change of wholesale

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price (suggested delivered price to retailers) for large cigars. The report shall consist of a copy of each general announcement that the manufacturer issues within his organization or to the trade about establishment or changes of wholesale prices. Only one copy of an announcement need be submitted even if it relates to tobacco products removed subject to tax from more than one factory. If this copy does not show the actual date when the announcement was issued, or identify the factory or factories from which removals of the cigars covered by the announcement are made, then the copy shall be annotated to show this information. The factory or factories shall be identified either by permit number(s) or by name, city and state. If an intraorganizational announcement involves a forthcoming price change or new product which at the time of issuance is to remain confidential until a later date, the manufacturer may include a statement to this effect on the copy submitted. The copy shall be submitted to the appropriate TTB officer within five business days after the day issued.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

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PACKAGES

§ 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery,

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(b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 40.212 Mark.

Every package of tobacco products packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in § 40.65 may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the appropriate TTB officer. Before using the alternative, the manufacturer shall notify the appropriate TTB officer in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the appropriate TTB officer shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]